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CERTIFICATION BY FACSIMILE

I hereby certify that this correspondence is being sent by facsimile transmission in accordance with § 1.6(d) addressed to Art Unit 1652, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 to Facsimile No. (571) 273-8300 on the date indicated below.

Date: October 3, 2006By: 

Aldo Martin

Docket No. GC794-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/810,277

Confirmation No. 8580

Applicant: Goedegebuur et al.
Filed: March 26, 2004
Art Unit: 1652
Examiner: Chowdhury, Iqbal Hossain
Docket No.: GC794-2
Customer No.: 5100

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is in response to the Restriction Requirement mailed July 3, 2006 in the above-identified patent application. A Two-Month Extension of Time is being filed concurrently herewith. Therefore, this Response is being filed on or before the current due date of October 3, 2006. The Examiner has required restriction among the following groups:

Group I, Claims 1-5 and 17, drawn to an isolated variant polypeptide having cellobiohydrolase I activity, classified in class 435, subclass 209;

Group II, Claims 6-16, drawn to an isolated polynucleotide encoding a polypeptide having cellobiohydrolase I activity, classified in class 435, subclass 252.3 and 209; and

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Group III, Claims 18-19, drawn to a method of converting biomass to sugars comprising contacting the biomass with a polypeptide having cellobiohydrolase I activity, classified in class 435, subclass 99,

Applicants hereby elect, with traverse, the invention in Group I, Claims 1-5 and 17, drawn to an isolated variant polypeptide having cellobiohydrolase I activity, classified in class 435, subclass 209.

Applicants traverse this restriction requirement and believe that a search and examination of the entire application (or Groups I and II) can be made without serious burden to the Examiner, see MPEP sections 803 and 808.

The basis for traverse is that there would not be a serious burden on the examiner if restriction between Groups I and II. Group I relates to an isolated polypeptide having cellobiohydrolase I activity, while Group II relates to an isolated polynucleotide sequence encoding the polypeptide. These two groups are very related because the isolated polypeptide requires a nucleotide sequence encoding the peptide. Reconsideration and withdrawal of the restriction requirement is respectfully requested.

Species Election

The examiner is requiring election of one of the following inventions:

- A. variant protein of SEQ ID No:3 or a nucleic acid encoding SEQ ID No:3;
- B. variant protein of *Hypocrea jecorina* having a substitution of threonine at position 55 with glutamic acid (T55E) or a nucleic acid encoding the said variant;
- C. variant protein of *Hypocrea jecorina* having a substitution of serine at position 58 with lysine (S58K) or a nucleic acid encoding the said variant;
- D. variant protein of *Hypocrea jecorina* having a substitution of glutamine at position 101 with tyrosine (Q101Y) or a nucleic acid encoding the said variant;
- E. variant protein of *Hypocrea jecorina* having a substitution of asparagine at position 250 with aspartic acid or glutamic acid (N250D or E) or a nucleic acid encoding the said variant;
- F. variant protein of *Hypocrea jecorina* having a substitution of proline at position 265 with alanine or serine (P265A or S) or a nucleic acid encoding the said variant;

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G. variant protein of *Hypocrea jecorina* having a substitution of leucine at position 288 with isoleucine (L288I) or a nucleic acid encoding the said variant;

H. variant protein of SEQ ID No:4 or a nucleic acid encoding SEQ ID No:4; and

I. variant protein of SEQ ID No:11 or a nucleic acid encoding SEQ ID No:11.

Applicants elect, with traverse, invention (H). Applicants traverse this requirement because SEQ ID NO:4 is the same as residues 19-525 of SEQ ID NO:3. In other words, the sequences are the same except that SEQ ID NO:3 contains the signal sequence while SEQ ID NO:4 does not. Reconsideration and withdrawal of the requirement as it relates to these two groups is respectfully requested.

Rejoining process claims under *In re Ochiai*

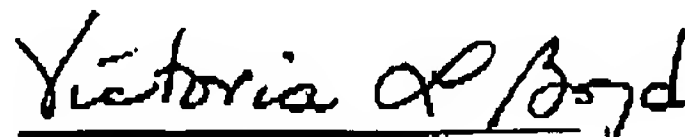
Applicants thank the Examiner for noting that after the elected product claims have been found allowable, all withdrawn process (method) claims which depend from or otherwise include all of the limitations of the allowed product claims should be rejoined. MPEP §821.04; page 800-63, 8th Edition, August 2001; *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995); *In re Brouwer*, 37 USPQ2d 1663 (Fed Cir 1995); 1184 OG 86, 3/26/96.

Applicants note that Groups encompassing withdrawn process (method) claims which depend from or otherwise include all of the limitations of the allowed product claims include Group II.

Applicants reserve the right to file subsequent applications claiming the non-elected subject matter and do not waive any of their rights or abandon any non-elected subject matter. Applicants have fully and completely responded to the Office Action and have made the required election. This application is now in order for early action.

Respectfully submitted,

Date: October 3, 2006


Victoria L. Boyd
Registration No. 43,510

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PATENT
Docket No. GC794-2
SN 10/810,277

☐ Urgent
☐ Confidential
☐ Action Required
☐ Reply Requested
☐ For Your Info.

FAX COVER SHEET

TO: Art Unit 1652

LOCATION: USPTO

Fax No.: (571) 273-8300 (Central Facsimile No.)

FROM: Victoria L. Boyd
Patent CounselLOCATION: GENENCOR INTERNATIONAL, INC.
Legal Department
925 Page Mill Road
Palo Alto, CA 94304-1013
Tel: 650-846-7615
Fax: 650-845-6504

DATE: October 3, 2006

NUMBER OF PAGES TO FOLLOW: 9 SENT BY: am

Re: Serial No. 10/810,277, Attorney Docket No. GC794-2

Attachments: Transmittal (1 page) in duplicate and Response to the Restriction Requirement (3 pages) and the Petition for Extension of Time (2 pages) in duplicate.

The original of this facsimile will be sent to you via:

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Date: October 3, 2006.By: 

Aida Martin

Docket No. GC794-2

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Appl. No.: 10/810,277

Confirmation No. 8580

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Filed: March 26, 2004

Art Unit: 1652

Examiner: Chowdhury, Iqbal Hossain

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Customer No.: 5100

TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Sir:

In response to the Restriction Requirement mailed July 3, 2006 in the above-identified patent application, enclosed please find the response with a Petition for a Two-Month Extension of Time.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 07-1048 (Docket No. GC794-2). A duplicate of this paper is enclosed.

Respectfully submitted,

Date: October 3, 2006


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